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Attorneys for Plaintiff John Durant

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
(WESTERN DIVISION)**

JOHN DURANT,

Plaintiff,

v.

NEWPORT CHILDREN'S MEDICAL GROUP
AT MISSION, INC.

Defendant.

CASE NO.:

COMPLAINT AND JURY DEMAND

Plaintiff, John Durant ("Plaintiff"), by his undersigned attorneys, Duane Morris LLP, for his
Complaint alleges as follows:

SUBSTANCE OF THE ACTION

1. This is a case of willful copyright infringement in violation of 17 U.S.C. §§ 106(1)
and 501. Plaintiff seeks compensatory and statutory damages in an amount to be established at trial.

PARTIES

2. Plaintiff John Durant is an individual doing business as John Durant Photographer, with an office address at 3421 Tripp Court, Studio 4, San Diego, California 92121.

3. Upon information and belief, defendant Newport Children's Medical Group at Mission, Inc. ("Defendant") is a company incorporated in California and has a principal place of business at 26800 Crown Valley Parkway, Suite 460 Mission Viejo, California.

JURISDICTION AND VENUE

4. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States, and therefore this Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 1338)(a) (jurisdiction over copyright actions).

5. Personal jurisdiction over Defendant is proper. Defendant is conducting business in this District and committing torts in this State, including without limitation Defendant's copyright infringement, which causes harm in this State and District.

6. Pursuant to 28 U.S.C. § 1391, venue properly lies in this Court because a substantial part of the events giving rise to the claims herein occurred in this Judicial District.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

A. Plaintiff's Business

7. Plaintiff is a professional photographer in California and, through his business John Durant Photographer, creates and licenses photographic images for various uses.

8. Plaintiff is particularly renowned for his editorial and commercial photographs of architecture and design and is highly sought after by magazines and famous architectural and design firms. Among the many stunning photographs created by Plaintiff, Plaintiff is the original author of a photographic image of the Mission Medial Plaza building, the photographic work that is at issue in this case (the "Copyrighted Work").

9. Plaintiff is the exclusive owner of the copyrights in and to the Copyrighted Work. Attached hereto as Exhibit A is a copy of the Copyrighted Work.

1 10. Plaintiff has obtained the following registration with the United States Copyright
2 Office for the Copyright Work: VAu 1-118-623. Attached hereto as Exhibit B is a copy of the
3 registration with the United States Copyright Office of the Copyrighted Work.

4 11. Plaintiff owns all rights, title, and interest, including copyrights, in and to the
5 Copyrighted Work.

6 B. Defendant's Unlawful Activities

7 12. Upon information and belief, Defendant is a business that sells pediatric medical
8 services.

9 13. Upon information and belief, Defendant promotes and advertises its services at the
10 website located at the URL:

- 11 • <http://www.newportchildrenatmission.com>.

12 14. Plaintiff discovered instances in which Defendant was infringing Plaintiff's exclusive
13 copyrights in the Copyrighted Work by reproducing, distributing, and publicly displaying the
14 Copyrighted Work to promote Defendant's services at websites located at the following URLs:

- 15 • [http://www.newportchildrenatmission.com/images/Mission%20Medical%20P](http://www.newportchildrenatmission.com/images/Mission%20Medical%20Plaza.jpg)
16 laza.jpg; and
- 17 • <http://www.newportchildrenatmission.com/locations.html>.

18
19 15. Defendant's reproduction, distribution, and public display of the Copyrighted Work is
20 without Plaintiff's permission. Copies of screenshots demonstrating Defendant's unauthorized use
21 ("Infringing Works") are attached hereto as Exhibit C.

22 **CLAIM FOR RELIEF**

23 **DIRECT COPYRIGHT INFRINGEMENT**

24 **(17 U.S.C. § 101 et seq.)**

25 16. Plaintiff realleges paragraphs 1 through 15 above and incorporates them by reference
26 as if fully set forth herein.

1 17. The Copyrighted Work is an original work of authorship, embodying copyrightable
2 subject matter, subject to the full protection of the United States copyright laws. Plaintiff
3 exclusively owns all rights, title and interest in and to the copyrights in the Copyrighted Work.

4 18. Upon information and belief, as a result of Plaintiff's reproduction, distribution and
5 public display of the Copyrighted Work, Defendant had access to the Copyrighted Work prior to the
6 creation of the Infringing Works.

7 19. By its actions, as alleged above, Defendant has infringed and violated Plaintiff's
8 exclusive rights in violation of the Copyright Act, 17 U.S.C. §501 *et seq.*, by reproducing,
9 distributing and publicly displaying the Infringing Works.

10 20. Upon information and belief, Defendant's infringement of Plaintiff's copyrights is
11 willful and deliberate and Defendant has profited at the expense of the Plaintiff.

12 21. As a direct and proximate result of Defendant's infringement of Plaintiff's copyrights
13 and exclusive rights in the Copyrighted Work, Plaintiff is entitled to maximum statutory damages,
14 pursuant to 17 U.S.C. § 504(c), in the amount of \$150,000 with respect to each infringing
15 reproduction, each infringing distribution, and each infringing public display, or such other amounts
16 as may be proper under 17 U.S.C. § 504(c).

17 22. Plaintiff is entitled to his costs, including reasonable attorneys' fees, pursuant to 17
18 U.S.C. § 505.

19 23. Defendant's conduct has caused and any continued infringing conduct will continue
20 to cause irreparable injury to Plaintiff, unless enjoined by this Court. Plaintiff has no adequate
21 remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction
22 prohibiting infringement of Plaintiff's exclusive rights under copyright law.

23 WHEREFORE, Plaintiff demands judgment in his favor as follows:

- 24 1. A declaration that Defendant has infringed Plaintiff's copyrights under the Copyright
25 Act;
26 2. A declaration that such infringement is willful;

Exhibit A



Exhibit B

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
VAu 1-118-623

**Effective date of
registration:**

October 5, 2012

Title _____

Title of Work: 3rd Quarter 2012

Completion/Publication _____

Year of Completion: 2012

Author _____

■ Author: John J. Durant

Author Created: photograph(s)

Citizen of: United States

Domiciled in: United States

Year Born: 1953

Copyright claimant _____

Copyright Claimant: John J. Durant

3421 Tripp Ct., #4, San Diego, CA, 92121, United States

Rights and Permissions _____

Organization Name: John Durant Photographer

Name: John J. Durant

Email: jd@johndurant.com

Telephone: 858-481-5111

Address: 3421 Tripp Ct., #4

San Diego, CA 92121 United States

Certification _____

Name: John Durant

Date: October 5, 2012

Exhibit C

Home

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**Newport Children's
@ Mission**
Medical Group

(949) 364-8700

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Our Locations

Pediatrician Mission Viejo and Newport Beach, CA

Our courteous office staff works hard to ensure patient comfort and convenience. To help you better understand our office operations, we have included the information you need about our hours, locations, appointments, insurance acceptance and billing below.

Newport Childrens Medical Group at Mission

26800 Crown Valley Parkway
Suite 460
Mission Viejo, CA 92691
(949) 364-8700

Office Hours

Monday:	08:00 AM - 05:00 PM
Tuesday:	08:00 AM - 05:00 PM
Wednesday:	08:00 AM - 05:00 PM
Thursday:	08:00 AM - 05:00 PM
Friday:	08:00 AM - 05:00 PM
Saturday:	Closed
Sunday:	Closed



After Hours, Weekends and Holidays Office

Newport Childrens Medical Group

1401 Avocado Street
Suite 802

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childrenatmission.com/images/Mission Medical Plaza.jpg



Search



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